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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DEAN HAHN-CARLSON

Appeal 2010-000660
Application 09/527,717
Technology Center 3700

Before: MURRIEL E. CRAWFORD, HUBERT C. LORIN, and JOSEPH
A. FISCHETTI, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant seeks our review under 35 U.S.C. § 134 from the Examiner's final rejection of claims 13 and 16-27. We affirm-in-part.

THE CLAIMED INVENTION

Appellant claims a system for shipment transactions involving a shipper and a carrier or a vendor and service providers where the transaction involves services. (Specification 1:20-22). Claims 13, 16, 23, and 26 are illustrative of the claimed subject matter:

13. For transaction processing involving transaction information related to services provided from a vendor and one of plurality of subvendors and processed by one of a plurality of subvendor controlled merchant-offering providers, a method for validating a service transaction for auditing comprising:

generating transaction information prior to processing by subvendor;

providing an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor; and

using a computer arrangement, maintaining data relating to the authorized profile list criterion and processing the transaction information by determining whether the transaction information satisfies the authorized profile list criterion, and by using the authorized profile list criterion to generate information for auditing a transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers.

16. For transaction processing involving transaction information related to services provided by one of a plurality of vendors and processed by one of a plurality of merchant-offering providers, a transaction validation system for auditing comprising:

a central processor arrangement programmed and configured:

to maintain data relating to an authorized profile list criterion and to business rules, the business rules defined according to the authorized profile list criterion; and

to process a business transaction submitted by an authorized user, the business transaction processed by using the authorized profile list criterion to determine that the user is authorized to perform the business transaction and by applying the business rules to perform the business transaction.

23. For transaction processing involving transaction information related to services provided by one of a plurality of vendors and processed by one of a plurality of merchant-offering providers, a processor arrangement programmed and configured to:

maintain data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor;

determine whether the processed transaction information satisfies the authorized profile list criterion; and

use the authorized profile list criterion to generate information for auditing the processed transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers.

26. For transaction processing involving transaction information related to remote services provided by one of a plurality of vendors and remotely processed by one of a plurality of merchant-offering providers, a local processor arrangement programmed and configured to:

maintain data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor;

determine whether the remotely processed transaction information satisfies the authorized profile list criterion; and

use the authorized profile list criterion to generate information for auditing the remotely processed transaction

between said one of a plurality of vendors and said one of a plurality of merchant-offering providers.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Henn	US 5,770,844	Jun. 23, 1998
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REJECTION

The following rejection is before us for review: the Examiner rejected claims 13 and 16-27 under 35 U.S.C. § 102(e) as being anticipated by Henn.

ISSUES

Did the Examiner err in rejecting claims 13 and 16-26 under 35 U.S.C. § 102(e) because Henn discloses a system for payment between a provider and receiver from which transaction information for auditing the transaction is generated utilizing data records that contain information about authorized users?

Did the Examiner err in rejecting claim 27 under 35 U.S.C. § 102(e) because Henn discloses that the systems involved in the transaction also generate the auditing information, and are thus not “entirely separate” from the processors involved in the transaction?

FINDINGS OF FACT

We find the following facts by a preponderance of the evidence.

1. Henn discloses *generating transaction information prior to processing by subvendor* by “providing a transaction receiver data record which

contains a transaction identifier and other data. The transaction receiver data record is transmitted to a third party for settlement.” (Col. 2 ll. 52-55).

2. Henn discloses a *vendor/ provider, merchant-offering provider/receiver, and subvendor/third party/bank* in that the “transaction provider transfers something, such as an amount of money, to the transaction receiver, and the transaction receiver intends then to process the transaction generally with a third party, such as a bank or another participant in the transaction system ...” (Col. 2 l. 65 to Col. 3 l. 2).
3. Henn discloses *providing an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor* using the “transaction identifier [that] facilitates identification of the transaction and contains all data as required for the identification of the transaction and for proving that the customer and merchant are each authorized participants within the system in which the transaction is being carried out.” (Col. 2 ll. 55-60).
4. Henn discloses *maintaining data relating to the authorized profile list criterion* in that “the transaction receiver transmits a transaction receiver data record which contains a transaction identifier and other data to a third party such as a bank.” (Col. 3 ll. 10-13).
5. Henn discloses *processing the transaction information by determining whether the transaction information satisfies the authorized profile list criterion*, in that:

The transaction receiver data record permits the bank to complete the monetary transfer of the transaction by carrying the data required for settlement. The transaction identifier substantially serves to identify the transaction and, if required,

also for proving that the transaction participants, also known as the transaction provider and the transaction receiver, are authorized participants within the system in which the transaction is carried out.

(Col. 3 ll. 13-20).

6. Henn discloses *using the authorized profile list criterion to generate information for auditing a transaction*, in that “[i]n order to audit for accurate settlement of the transaction in accordance with the instant invention, the transaction provider transfers a transaction provider data record, which also includes the respective transaction identifier, to the third party.” (Col. 3 ll. 25-29).
7. The Specification describes by example that a *vendor* authorizes payment to a *provider*, stating, “the paying institution 1352 and the issuing institution 1344 are involved in processing the payment to the service provider once it has been authorized by vendor.” (Spec. 41:13-15).
8. Henn discloses a *central processor arrangement* at the “central device of the third party” to which transaction data records are transferred for processing (col. 4 ll. 63-67).
9. Henn discloses *multiple levels of authorization* in that “[f]or security reasons, prior to the commencement of the communication, a security check is conducted from which it becomes known whether the chip card is a valid chip card and whether the transaction receiver is a legal participant in the transaction system.” (Col. 4 ll. 47-51).
10. Henn discloses determining that the processed transaction information satisfies the authorized profile list criterion, in that “preferably an examination parameter is set which determines whether a respective

transaction provider data record is to be transmitted to the third party by the transaction provider.” (Col. 4 ll. 1-4).

11. Henn discloses *generating auditing information/receiver data record in response to determining the processed transaction information satisfies the authorized profile list criterion/examination parameter*, in that:

The auditability of transactions, according to the invention, by means of a separate transmission of the transaction data records, i.e. the transaction receiver data record by the transaction receiver who must transmit such transaction identifier to the third party for executing the transaction anyway, and of the transaction provider data record by the transaction provider who transfers the transaction identifier in view of the checkability of the performed transaction to the third party, permits thereby effective auditing of the transaction system and also of the participants in the transaction.

(Col. 3 ll. 52-62).

12. Henn discloses a processor arrangement performing transaction operations at “computer **15** of chip card **10** and the computer **25** of cash box **20** ...” (col. 6 ll. 18-19).
13. Henn discloses a processor arrangement at bank device **30**, which “may also be a system of individual computers and chip card readers/writers ...” (col. 8 ll. 22-26).
14. Henn discloses levels as corresponding to a type of user, in that “the information defining payment authorization levels for communicators in the database is defined by a specified type of user ...” (Spec. 7:14-16).

ANALYSIS

Claim 13

Appellant argues, “Appellant cannot ascertain” any discussion of limitations corresponding Henn to the limitations of *generating, providing, and determining* (Appeal Br. 6-7).

We are not persuaded by Appellant’s argument, because we find Henn discloses the requirements of the claimed method, as follows:

- We find Henn discloses *generating transaction information prior to processing by subvendor* by “providing a transaction receiver data record which contains a transaction identifier and other data. The transaction receiver data record is transmitted to a third party for settlement.” (FF 1).
- We find that in claim 13, the third party is the *subvendor* because the bank/third party contracts with the *vendor* to provide financial transaction processing (FF 2).
- We construe the *vendor* in claim 13 as the one making a payment, rather than being paid, because the claim is concerned with who may “authorize payment by the vendor.”
- We find Henn discloses *providing an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor* using the “transaction identifier [that] facilitates identification of the transaction and contains all data as required for the identification of the transaction and for proving that the customer and merchant are each authorized participants within

the system in which the transaction is being carried out.” (FF 3).

- We find Henn discloses *maintaining data relating to the authorized profile list criterion* in that “the transaction receiver transmits a transaction receiver data record which contains a transaction identifier and other data to a third party such as a bank” (FF 4), which data record includes *authorized profile list criterion* as authorized users (FF 3).
- We find Henn discloses *processing the transaction information by determining whether the transaction information satisfies the authorized profile list criterion*, in that, the “transaction receiver data record permits the bank to complete the monetary transfer of the transaction” (FF 5) because the third party/bank/subvendor can “identify the transaction and, if required, also for proving that the transaction participants, also known as the transaction provider and the transaction receiver, are authorized participants ...” (FF 5).
- We find that Henn discloses *using the authorized profile list criterion to generate information for auditing a transaction*, in that “[i]n order to audit for accurate settlement of the transaction in accordance with the instant invention, the transaction provider transfers a transaction provider data record, which also includes the respective transaction identifier, to the third party.” (FF 6).
- We find Henn discloses that the transaction is *between one of a plurality of vendors and said one of a plurality of merchant-*

offering providers, because the transaction is between a provider/*vendor* and a receiver/*merchant-offering provider*¹ (FF 2).

Thus, the Henn disclosure meets the requirements of claim 13.

Appellant argues, the “Henn reference is significantly unrelated to the claimed invention.” (Appeal Br. 5).

We are not persuaded by Appellant’s argument, because we find Henn discloses a system to generate information to process a payment transaction and for auditing the transaction (FF 1-6), which meets the claim requirements, as set forth above.

Appellant next argues, in Henn “[t]here is no mention of any vendor or subvendor whatsoever” (Appeal Br. 7).

We are not persuaded by Appellant’s argument, because we find, as set forth above, that Henn discloses a *vendor* as a “transaction provider” because the provider provides payment to the receiver, and a *merchant-offering provider* as a “transaction receiver” as a party that receives payment for services/products provided (FF 2). This meaning is consistent with the Specification, which although it does not explicitly define the term *vendor*, describes it by example, stating, “the paying institution 1352 and the issuing institution 1344 are involved in processing the payment to the service provider once it has been authorized by vendor.” (FF 7). Therefore, the “transaction provider” in Henn meets the requirement for a *vendor* as a party that is paying.

¹ We note that the term *merchant-offering provider* is not defined or described in the Specification, and we therefore construe the term broadly as a party that provides something as a party to a transaction, such as a product, service, in exchange for payment from the *vendor*.

We find the third party/bank in Henn is the *subvendor*² because the bank/third party contracts to provide financial transaction processing (FF 2). Anticipation “is not an ‘*ipsissimis verbis*’ test.” *In re Bond*, 910 F.2d 831, 832-33 (Fed. Cir. 1990) (citing *Akzo N.V. v. U. S. Int’l Trade Comm’n*, 808 F.2d 1471, 1479 n.11 (Fed. Cir. 1986)). “An anticipatory reference ... need not duplicate word for word what is in the claims.” *Standard Havens Prods., Inc., v. Gencor Indus., Inc.*, 953 F.2d 1360, 1369 (Fed. Cir. 1991).

Appellant next argues, there is in Henn “no generation of information for auditing a transaction between a vendor and merchant-offering providers.” (Appeal Br. 7).

We are not persuaded by Appellant’s argument. This is because we find, as set forth above, that Henn discloses generating and maintaining information for auditing in a “transaction provider data record” which saves information for auditing purposes (FF 6). We also find the *vendor* at the “transaction provider” because the transaction provider makes payment (FF 2), and find the *merchant-offering provider* at the “transaction receiver” because the receiver receives payment (FF 2), thus meeting the claim requirements.

Appellant argues, “the transaction information in the Henn reference is generated during the transaction (*after* the transaction is initiated), and that must further include a transaction identifier that is generated by the transaction receiver” (Appeal Br. 7).

We are not persuaded of error, because we find Henn discloses the required *generating transaction information prior to processing by*

² The Specification also does not explicitly define the term *subvendor*, so we interpret the term as a party under some type of privity with a *vendor*.

subvendor by “providing a transaction receiver data record which contains a transaction identifier and other data. The transaction receiver data record is transmitted to a third party for settlement.” (FF 1). There is no claim requirement that the transaction information be generated before a transaction, as implied by argument, but only before processing, which processing in Henn takes place after the information is provided to the bank (FF 5).

Claim 16

Appellant argues that as with claim 13, Henn also does not disclose the limitations of independent claim 16 (Appeal Br. 6).

We are not persuaded by Appellant’s argument, because we find Henn discloses the requirements of claim 16, as follows:

- We find Henn discloses *a central processor arrangement* at the “central device of the third party” that processes the transaction (FF 8).
- We find Henn discloses that the *central processor arrangement* is *programmed and configured: to maintain data relating to an authorized profile list criterion*, because the data record sent to the third party bank contains data “for proving that the customer and merchant are each authorized participants” (FF 3).
- We find that Henn further discloses *business rules, the business rules defined according to the authorized profile list criterion*, because “transaction receiver data record permits the bank to complete the monetary transfer of the transaction by carrying the data required for settlement” (FF 5). Here the *business*

rules indicate the authorized users may authorize the completion of the particular transaction, thus meeting the claim requirement.

- We find Henn discloses acts *to process a business transaction submitted by an authorized user*, in that the third party bank completes processing of the transaction after receiving the data (FF 5).
- We find Henn discloses *the business transaction [is] processed by using the authorized profile list criterion to determine that the user is authorized to perform the business transaction and by applying the business rules to perform the business transaction*, because the bank must receive the data about authorized users and other data which “permits the bank to complete the monetary transfer of the transaction” (FF 5).

Thus, we find that Henn meets all claim requirements of claim 16.

Claim 17

Dependent claim 17 recites, *inter alia*, “wherein the authorized profile list criterion includes multiple levels of authorization.”

Appellant argues “the Examiner has not cited any portion of the Henn reference (or any other reference) that describes any transaction functions relating to using multiple levels of authorization to determine a user authorization, and related transaction performance.” (Appeal Br. 8).

We are not persuaded by Appellant’s argument, because we find Henn discloses criteria with multiple levels of authorization, in that the card from which payment is issued must be valid, and also the transaction receiver must be a legal participant in the transaction (FF 9), thus meeting the claim

requirement because we consider card and participant validity to be *levels of authorization* in that they represent criteria with different scopes that affect the authorization of the transaction.

Claim 18

Dependent claim 18 recites, *inter alia*, “wherein at least two of the multiple levels of authorization respectively correspond to two different payment authorization levels.”

We affirm the rejection of claim 18 because we find Henn additionally discloses two levels of authorization corresponding to two authorization levels, namely that of the receiver and provider (FF 9), thus meeting the claim requirement because the Specification describes that “the information defining payment authorization levels for communicators in the database is defined by a specified type of user” (FF 14) and the receiver and provider are each types of users.

Claim 19

Dependent claim 19 recites, *inter alia*, “wherein the central processor arrangement is further programmed and configured to provide correspondence between at least one of the levels of authorization to the requested transaction.”

We affirm the rejection of claim 19 because we find Henn discloses providing correspondence between the transaction receiver and the requested transaction, in that “transaction receiver data record permits the bank to complete the monetary transfer of the transaction by carrying the data required for settlement” (FF 5), thus meeting the claim requirement through the correspondence of the receiver’s authorization to the transaction when the receiver transmits the receiver data record to the bank (FF 5, 1).

Claim 20³

Dependent claim 20 recites, *inter alia*, “wherein the transaction is completed after correspondence is provided between at least one of the levels of authorization and the requested transaction.”

We affirm the rejection of claim 20 because we find Henn discloses the transaction is completed after correspondence is provided between the transaction receiver and the transaction, in that “transaction receiver data record permits the bank to complete the monetary transfer of the transaction by carrying the data required for settlement” (FF 5), thus meeting the claim requirement.

Claims 21 and 22

Dependent claims 21 and 22 each identically recites, *inter alia*, “wherein the authorized profile list criterion includes a plurality of attributes associated with the authorized user submitting the business transaction.”

We affirm the rejection of claims 21 and 22 because we find Henn discloses that the “transaction receiver data record which contains a transaction identifier and other data” (FF 1), thus meeting the claim requirement because the identifier and other data are attributes.

Claim 23

Appellant argues that, as with claim 13, Henn also does not disclose the limitations of independent claim 23 (Appeal Br. 6).

³ We assume that claim 20, since its introduction in the amendment filed November 25, 2002, was intended to depend from claim 17 and not claim 16, because claim 20 requires “correspondence is provided between at least one of the levels of authorization,” and those “levels of authorization” are first introduced in claim 17, but not present in claim 16.

We are not persuaded by Appellant's argument, because we find Henn discloses the requirements of claim 23, as follows:

- We find Henn discloses a processor arrangement at computers 15, 25, and 30 (FF 12), which act to *maintain data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor* at the “transaction identifier [that] facilitates identification of the transaction and contains all data as required for the identification of the transaction and for proving that the customer and merchant are each authorized participants ...” (FF 3).
- We find Henn discloses acts to *determine whether the processed transaction information satisfies the authorized profile list criterion* when “proving that the transaction participants, also known as the transaction provider and the transaction receiver, are authorized participants within the system in which the transaction is carried out.” (FF 5).
- We find Henn discloses acts to *use the authorized profile list criterion to generate information for auditing the processed transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers*, because “[i]n order to audit for accurate settlement of the transaction in accordance with the instant invention, the transaction provider transfers a transaction provider data record, which also includes the respective transaction identifier ...” (FF 6) and because the transaction identifier “contains all data as required for the

identification of the transaction and for proving that the customer and merchant are each authorized participants” (FF 3).

- We find (as we did above for claim 13) that Henn discloses a *vendor* as a “transaction provider” because the provider provides payment to the receiver, and a *merchant-offering provider* as a “transaction receiver” as a party that receives payment for services/products provided (FF 2).

We thus find Henn discloses all the limitations of independent claim 23.

Appellant also argues, specifically as to claim 23, that “the Examiner has not cited any portion of the Henn reference (or any other reference) that describes transaction functions relating to different users empowered to authorize payment for a particular vendor.” (Appeal Br. 9).

We are not persuaded by Appellants' argument, because we find Henn discloses transaction functions of generating transaction identifiers and data that relate to different users empowered to authorize payment on behalf of a particular vendor, because “[i]n order to audit for accurate settlement of the transaction in accordance with the instant invention, the transaction provider transfers a transaction provider data record, which also includes the respective transaction identifier ...” (FF 6) and because the transaction identifier “contains all data as required for the identification of the transaction and for proving that the customer and merchant are each authorized participants” (FF 3), thus meeting the claim requirements because the customer is a *user empowered to authorize payment by the vendor*.

Claim 24

Dependent claim 24 recites, *inter alia*, being configured to “use the authorized profile list criterion to generate information for auditing in response to the processor determining that the processed transaction information satisfies the authorized profile list criterion.”

We affirm the rejection of claim 24 because we find Henn discloses that auditing information is generated in the form of a record the transaction provider transfers (FF 6), and discloses determining if an “examination parameter” is set before determining if that information is sent (FF 10), thus meeting the claim requirements because determination of the examination parameter requires *determining* and the examination parameter is a type of *criterion*.

Claim 25

Dependent claim 25 recites, *inter alia*, being configured to “effect payment for a transaction in response to the generated information.”

We affirm the rejection of claim 25 because we find Henn discloses making payment for a transaction in response to information generated for auditing, in that the “transaction receiver data record permits the bank to complete the monetary transfer of the transaction by carrying the data required for settlement” (FF 5) and the same transmission receiver data record is part of the auditing information (FF 11), thus meeting the claim requirements. That is, the information in the data record is generated both for the transaction and for auditing the transaction, so the information generated for auditing also permits the bank to “effect payment.”

Claim 26

Independent claim 26 differs from independent claim 23 by requiring the use of “remotely” processed information in the steps to *determine whether information satisfies the ... criterion*, and *generate information for auditing*. Additionally, in contrast to claim 23, the preamble states that a “local” processor arrangement is used, as opposed to merely *a processor arrangement*. Claim 26 thus requires separation of the transaction processing from the determination and generation of auditing information.

Appellant argues, specifically as to claim 26, that “the Examiner has not cited any portion of the Henn reference (or any other reference) that describes transaction functions relating to different users empowered to authorize payment for a particular vendor.” (Appeal Br. 9).

We are not persuaded by Appellant’s argument, because we find Henn discloses that transaction processing is performed remotely from the transaction provider and receiver, because a third party bank, to which information is transferred, does the financial processing (FF 5). We further find the information for auditing is generated by the transaction provider (FF 6) and a determination of authority is also performed when information is gathered “for proving that the customer and merchant are each authorized participants” (FF 3). We further find the *local processor arrangement* in Henn at either the transaction provider’s computer 15 (FF 12) or the transaction receiver’s computer 25 (FF 12). We find the remainder of the claim requirements are identical to those of claim 23, and affirm the rejection for the same reasons set forth at claim 23, above.

Claim 27⁴

Dependent claim 27 requires the local processor arrangement “to generate information for auditing transactions occurring entirely separate from the local processor arrangement.”

In claim 26 we found the *local processor arrangement* at either the computer 15 of the transaction provider/*vendor* (FF 12) or at computer 25 of the transaction receiver/*merchant-offering providers* (FF 12). However, because both systems are involved in the payment transaction which is later processed by the bank, and since only the transaction provider and receiver generate information for auditing, neither of these two computers can be “entirely separate” from any transaction for which auditing information is generated. Therefore, Henn does not disclose generating information for auditing transaction occurring entirely separate from the transaction provider or receiver. We therefore cannot sustain the rejection of claim 27.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 13 and 16-26 under 35 U.S.C. § 102(e) over Henn.

The Examiner erred in rejecting claim 27 under 35 U.S.C. § 102(e) over Henn.

⁴ We assume that claim 27, since its introduction in the amendment of July 9, 2003, was intended to depend from claim 26 and not claim 25, because claim 27 is directed to a *local processor arrangement* which is the subject of claim 26, but not claim 25, which also does not include the term “local,” nor the concept of remoteness, in its recitation or its antecedent claims.

DECISION

For the above reasons, the Examiner's rejection of claims 13 and 16-26 is AFFIRMED.

The Examiner's rejection of claim 27 is REVERSED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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